

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	
)	DATE: October 29, 2002
Joy A. Arnold)	
Deputy Chief of Staff for)	
Community Affairs)	
Executive Office of the Mayor)	DOCKET NO.: CF 2002-09

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the Inspector General has alleged that certain current and former employees engaged in behavior that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct.

In the instant case, the Inspector General has alleged that Joy A. Arnold, Deputy Chief of Staff for Community Affairs, Executive Office of the Mayor (hereinafter respondent), engaged in private or personal business activity on government time and with the use of government resources on behalf of events entitled the "Mayoral Reception for the Congressional Black Caucus" (hereinafter the Black Caucus Reception) and the "Clarence Vinson Reception" (hereinafter the Vinson Reception), in violation of §§1800.1, 1803.1(f), 1803.2(a) and 1804.1(b) of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §1800.1 reads as follows:

Employees of the District government shall at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

DPM §1803.1(f) reads as follows:

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations. There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01. Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered.

Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of the following:

...

- (f) Affecting adversely the confidence of the public in the integrity of government.

DPM §1803.2(A) reads as follows:

District employees shall not solicit or accept, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with others:

- (a) Has, or is seeking to obtain, contractual business or financial relations with the D.C. government;
- (b) Conducts operations or activities that are subject to regulation by the D.C. government; or
- (c) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

DPM §1804.1(b) reads as follows:

An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include but are not limited to, the following:

...

- (b) Using government time and resources for other than official business[.]

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

By letter dated June 7, 2002, OCF requested respondent to appear at a scheduled hearing on June 14, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the OIG Report. On June 13, 2002, by letter, the respondent's counsel, A. Scott Bolden, Esq., requested an extension for said hearing date, which was approved. However, in lieu of hearing, on July 30, 2002, OCF submitted a list of interrogatories to the respondent, to which she replied on August 26, 2002.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of her use of government resources to coordinate non-government events during government time. Consequently, the Inspector General has alleged that the respondent engaged in activities which were not compatible with the full and proper discharge of her responsibilities as a government employee. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

The respondent avers that she did not violate the DPM's Standards of Conduct and relies upon her responses to interrogatories submitted to OCF on August 26, 2002. (hereinafter Responses).

Findings of Facts

Having reviewed the allegations and the record herein, I find:

1. Respondent, Joy A. Arnold, as Deputy Chief of Staff for Community Affairs, Executive Office of the Mayor (hereinafter EOM), is a public official required to file a Financial Disclosure Statement (hereinafter FDS) with OCF. Response to Question Number (hereinafter Q. No.) 1.
2. From July 1999 through April 2001, the respondent served as Confidential Assistant to the Mayor under the Mayor's Chief of Staff, Dr. Abdusulam Omer (hereinafter Omer). Response to Q. No. 3.
3. As an EOM employee, the respondent “. . .carried out duties that were required of [her] with the goal of facilitating the Mayor's responsibility to represent and promote the District of Columbia.” Response to Q. No. 22.
4. “On the evening of September 13, 2000, Mayor Anthony A. Williams [hereinafter the Mayor] hosted a reception [at “BET on Jazz”] to honor members of the Congressional Black Caucus (CBC) during their 30th Annual Legislative Conference, and to acknowledge Congressional leaders who have supported the revitalization of the District of Columbia [and] invitees included several United States Congressmen, District of Columbia Council members, District

employees, and other prominent figures in the community.” Report at 130.

5. “During the 2000 Summer Olympics in Sydney, Australia, Clarence A. Vinson, a bantamweight boxer from the District of Columbia, won a bronze medal for the United States[; and t]o celebrate this accomplishment by a Washington, D.C. native, EOM hosted a reception for Vinson on November 29, 2000, at the MCI Center’s National Sports Gallery.” Report at 141.
6. The Black Caucus Reception and the Vinson Reception were official District government events, sponsored by the Mayor.
7. Funding for the Black Caucus Reception and the Vinson Reception, said official District government events, was solicited from, inter alia, businesses doing business with the District of Columbia, on behalf of the District of Columbia government. Report at 131 & 141.
8. Respondent performed assignments, e.g., she signed the contract for the site of the Black Caucus Reception and gave the deposit therefor; and, she arranged the location by signing the contract therefor and catering and she mailed invitations to the Vinson Reception, to implement both events, because the Mayor or Omer, as her supervisors, instructed her to do so.

Conclusions of Law

1. Respondent is an employee of the District of Columbia government and is subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. The Black Caucus Reception and the Vinson Reception were funded through solicitations by EOM staff from businesses doing business in the District of Columbia, on behalf of the District of Columbia government. Contra In the Matter of Mark Jones, Docket No. PI 2001-101 (November 7, 2001) (Mark Jones violated the Standards of Conduct when he solicited funds from businesses doing business in the District of Columbia, on behalf of various private, non-profit organizations.)
3. Solicitation by District government employees from businesses doing business in the District of Columbia, on behalf of the District of Columbia government, is not within the purview of the DPM Standards of Conduct.³

³ Whether or not this action violates the “Anti-Deficiency Act” must be determined by the Office of the Corporation Counsel or the Office of the Chief Financial Officer. Report at Specific Finding 29.

4. The Vinson Reception and the Black Caucus Reception, notwithstanding that they were funded through solicitations by EOM staff from businesses doing business in the District of Columbia, but on behalf of the District of Columbia, were official District government events, sponsored by the Mayor, to promote the District of Columbia.
5. Respondent used District of Columbia government time and resources to plan and organize the Vinson Reception and the Black Caucus Reception; and, respondent did not violate any employee conduct regulations because the respondent was engaged in government business.
6. Respondent used District of Columbia government time and resources to plan and organize the Vinson Reception and the Black Caucus Reception and respondent did not violate any employee conduct regulations because the respondent was directed in these tasks by her supervisors, the Mayor and Omer.
7. The responsibility for enforcing the provisions of the employee conduct regulations against the respondent rests with Mayor Anthony A. Williams (hereinafter the Mayor).

Recommendation

I hereby recommend the Director to dismiss this matter. Notwithstanding, it is further recommended that the Director advise the Mayor to warn the respondent that it is imperative that she, as a District government employee, become closely familiar with the provisions of the employee conduct regulations, and avail herself, if she has not already done so, of any ethics seminars or workshops scheduled by the District government.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that this matter be dismissed.

IT IS FURTHER ORDERED that the Mayor be advised to warn the respondent that it is imperative that she, as a District government employee, become closely familiar with the provisions of the employee conduct regulations, and avail herself, if she has not already done so, of any ethics seminars or workshops scheduled by the District government.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, NW, Washington, D.C. 20009.